

**DESIGNERS SECTION
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS
MINUTES
APRIL 21, 2009**

PRESENT: Scott Berg, Steven Tweed (connected by phone), and James Mickowski

EXCUSED: Thomas Gasperetti

STAFF PRESENT: Yolanda McGowan, Bureau Director; Kimberly Wood, Bureau Assistant and Colleen Baird, Legal Counsel

CALL TO ORDER

Scott Berg, Chair, called the meeting to order at 9:44 a.m. A quorum of three (3) members was present.

ADOPTION OF AGENDA

Amendments:

- Between Items “E & F” (open session) Discussion of A-E 5.06 Relating to Designer Permit Limitations – Attorney General (Robert Warren) Opinion, dated January 25, 1971
- End of Agenda (closed session) Case Status Report

MOTION: James Mickowski moved, seconded by Steven Tweed, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OCTOBER 21, 2008

Amendments:

- Page 3 of the Minutes: Under the header titled “New Business”
 - Item 1: Spelling correction from “relatin” to “relating”
 - Item 4: Spelling correction from “Contiuing” to “Continuing”

MOTION: James Mickowski moved, seconded by Steven Tweed, to approve the Minutes of October 21, 2008 as amended. Motion carried unanimously.

ELECTIONS

Election of Officers for 2009

The Section elected their officers for 2009.

NOMINATION: James Mickowski nominated the 2008 officers for re-election in 2009. The section voted unanimously to re-elect the current slate.

Appoint Board's Representatives for Screening Panel by Board Chair

Scott Berg, Chair, appointed Thomas Gasperetti as the Section's screening panel representative.

Appoint Public Member for A-E Rules Committee By Board Chair

Scott Berg, Chair, appointed Thomas Gasperetti as the A-E Rules Committee public member.

ADMINISTRATIVE REPORT – YOLANDA MCGOWAN, BUREAU DIRECTOR

Yolanda McGowan advised of efforts to fill the Section's vacancy. The Section's attention was then directed to a survey which was provided at today's meeting. It was explained that this survey is intended to be used as a self evaluation tool for the Section. Instruction on the completion, collection and a review of the Board Member Satisfaction Survey was given.

The Section was then informed that the Department would like to conduct Board Chair training sessions in the Fall of each given year. In order to obtain advance knowledge of the individuals in attendance, it was requested that the Section consider changing elections to the Fall to allow time for new chairs and vice chairs to be trained. The Section noted that elected officers would not assume their duties until the first meeting of the following calendar year.

2009 Meeting and Screening Dates

The Section was provided with their 2009 meeting and screening dates for informational purposes.

Department Updates

Yolanda McGowan reported changes occurring within the Department:

- Nicole Goodman has transferred to the Office of Education and Examinations.
- Gail Sumi has been appointed as the Division of Board Services Administrator.
- Hector Colon was appointed as the Department's Executive Assistant.
- The Division of Board Services is merging with the Office of Legal Counsel in order to improve the efficiency of services to the Boards.

Annual Policy Review with the Sections

Yolanda McGowan provided a review of the Department policies listed below:

- Quorum Policy and Procedure
- Agendas and Addendums
- Hotel Policy and Reservations
- Travel Vouchers and Per Diems
- Out-of-State Travel Policy
- State of Wisconsin Pocket Travel Guide
- Checked Baggage Policy
- Approved Board Meeting Dates for 2009

MOTION TO DESIGNATE HEARINGS AND APPEALS ATTORNEY AS ALJ

Yolanda McGowan advised the Section of the Department's initiative to move the Administrative Law Judge (ALJ) function to the Division of Hearings and Appeals and further advised that this motion allows an attorney outside of the Department to handle these matters. Colleen Baird added that the move of the ALJ function alleviates conflict of interest concerns relating to ALJ's working in the same building with prosecuting attorneys.

MOTION: James Mickowski moved, seconded by Steven Tweed, to designate an attorney who is employed by the Division of Hearings and Appeals, Wisconsin Department of Administration, to serve as an Administrative Law Judge to preside over Class 1 license denial hearings and Class 2 disciplinary proceedings, pursuant to Wis. Admin. Code § RL 1.08 and § RL 2.10. This designation is in addition to the designation already provided for in Wis. Admin. Code § RL 1.08 and § RL 2.10. Motion carried unanimously.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES

Noted.

PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT OR ANY SUBMITTED AFTER PRINTING OF THE AGENDA

William Joseph Bergh

Jack Temby presented the Proposed Stipulation, Final Decision and Order in the matter of William Joseph Bergh 06 DSN 011.

LEGISLATIVE/ADMINISTRATIVE RULES

Update on Potential Statutory and Rule Changes Relating to Chapter A-E 5 and Chapter 443, Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors as it relates to Designer of Engineering Systems

Colleen Baird, Legal Counsel, updated the Section regarding the status of its administrative rule drafts, A-E 8.08 (3) and (4) relating to failure to respond to information requests in conjunction with an investigation of a complaint against a registrant, and A-E 8.03 (5) (a) and (b) relating to the definition of supervision, direct supervision, responsible charge and direction and control. It was indicated that these proposed rules would affect the rules of professional conduct for all sections of the Joint Board.

Colleen Baird then informed the Section that the Land Surveyors have completed drafting of A-E 10, relating to continuing education for Land Surveyors. Colleen Baird informed the Section that the authorizing legislation allows the Section to create continuing education requirements and she then provided an outline of the rulemaking process. The progress of the other sections in the creation of continuing education rules was reported. The three aforementioned rule drafts will be subject to public hearing at the A-E Joint Board Rules Review Committee Meeting in May.

Yolanda McGowan then provided the Section with information as to the status of pending legislation. It was noted that legislation has been drafted regarding the repeal of a provision allowing applicants to review failed examinations. This legislation was drafted as the testing exam vendors has indicated that review of examinations could compromise the security of their exam and has disallowed the review of failed tests. The rule draft repealing this provision has been received from the Legislative Reference Bureau has been approved.

Yolanda McGowan then noted that at its last meeting the Section requested Department assistance in drafting legislation pertaining to a number of topics such as rewriting the definition of design practice, elimination of the pathway to licensure for master plumbers and the elimination of the grandfather clause licensure provision. Discussion regarding the status of these items ensued. It was noted that drafts have not been received from the Legislative Reference Bureau at this time. In the interim the Section was advised to seek sponsorship for pending items.

MOTION: James Mickowski moved, seconded by Steven Tweed, to authorize Scott Berg, Chair, to approve any rule or legislative drafts on behalf of the Board. Motion carried unanimously.

Update on Elimination of the Grandfather Clause LRB 05-4006/P1

This issue was addressed within the discussion of pending legislation.

Discussion of A-E 5.06 Relating to Designer Permit Limitations

Colleen Baird indicated that at a previous meeting the Section had requested research regarding the inception of the provision to obtain licensure for master plumbers. It was noted that Attorney Baird has not completed research but she did review the extent of her research to date. The Section was provided with a copy of an opinion of Robert W. Warren, Attorney General, dated January 25, 1971, which supports the Section's or Board's authority to impose requirements on permit holders to restrict sub-fields issued to master plumbers for design of plumbing systems. The Section then discussed the status and noted that a draft from the Legislative Reference Bureau would need to be received. The Section was then advised to begin searching for a sponsor.

CREDENTIALING

Review of Designer Applicant Appraisal Form #989

The Section reviewed application form #989 in order to field a question submitted by Jan Bobholz, Credentialing Supervisor – Business, regarding the wording of questions on this form. After review and discussion of the questions posed by Jan Bobholz, the Section requested that changes be made to this application form.

EDUCATION/EXAMINATION ISSUES

Design Exam Report

Gail Pizarro, Examination Specialist, joined the meeting to provide an update to the Section regarding the re-write of the Designer credential examinations. The Section was informed that as a result of the re-write of the exam, the entire exam would not have to be rewritten in the future. Any questions, updates or revisions to the exam are able to be replaced individually and expediently. The test is being provided in a computer lab in a proctored setting. The testing duration time is set at four hours. Another new provision of this exam would allow the test to be provided more than twice a year should the need arise. Also discussed was the incorporation of questions based on the administrative code.

The Section then discussed the logistics of reviewing the exams. It was concluded that review of two of the exams will occur at its next meeting. Gail Pizarro will send these exams to the Section members prior to the next Section meeting. Colleen Baird and Gail Pizarro briefly discussed the security of the exam with the Section.

DISCUSSION OF LONG RANGE PLAN

Scott Berg indicated that the listing below was added to the agenda in order to maintain focus on the Section's long range planning. The Section indicated that defining the scope of practice for the designer fields has become its top priority and will be an area of focus at its next meeting. The Section added to its planning list in the form of including a review of the designer application form. It was requested that this item be placed on future agendas under the topics listed under "Discussion of Long Range Plan". The Section indicated that the review of the applicant appraisal form should be handled after some of the existing topics have been achieved.

The addition of two (2) potential areas of focus was discussed:

1. Scott Berg indicated that he had received correspondence which inquired about information disseminated in Chapter 443 that he found to be misleading. The section of Chapter 443 in question will be sent to Yolanda McGowan for follow-up and possible inclusion on a future agenda.
2. Stamping requirements were discussed regarding what information is provided as qualifications for a design professional's stamp. After brief discussion it was decided that we may be able handle this issue internally. Yolanda McGowan will provide follow-up on this topic and determine the need to bring this matter back to the Section.

Chapter 443 Errors, Omissions and Definitions Relating to Designer of Engineering

This item requires legislation. The Section is waiting for a draft from the Legislative Reference Bureau (LRB) in order to proceed. The Section has been advised to search for sponsorship in order to expedite the process.

Elimination of Grandfather Clause to Obtain Designer Permit (Ref: 443.07(b))

This item requires legislation. The Section is waiting for a draft from the Legislative Reference Bureau (LRB) in order to proceed. The Section has been advised to search for sponsorship in order to expedite the process.

Definition of Designer Fields (ex: electrical – fire alarm system)

The Section discussed the need for definitions of designer fields, its desire to move forward on this issue and identified this item as its main priority. Yolanda McGowan requested that the Section provide more detailed information relating to exploring and defining the scope of practice for the design sub-fields in order to communicate this information to the LRB for drafting purposes. James Mickowski and Scott Berg will work to explore and define the scope of practice prior to the next Section meeting.

Yolanda McGowan informed the Section that a constituent question has been received pertaining to this issue. The Section indicated that they are reviewing this issue and looking for feedback from the State of Wisconsin Department of Commerce.

Continuing Education

This issue will require rulemaking once the Section is ready to address this issue. This item was identified as lower priority by the Section.

Master Plumbers/Designer Permit (443.07(4) & A-E 5)

This item requires legislation. The Section is waiting for a draft from the Legislative Reference Bureau in order to proceed. The Section has been advised to search for sponsorship in order to expedite the process.

DISCUSSION OF CREATING LICENSES/CREDENTIALS FOR AREAS OF DESIGN SPECIALTIES

The Section briefly discussed the need to develop credentials for new areas of design specialties. The Section concluded that this topic is still under review but the need for additional specialties is not currently anticipated.

INFORMATIONAL ITEMS

None.

NEW BUSINESS

None.

BOARD MEMBER ACTIVITY

None.

PUBLIC COMMENTS

None.

CLOSED SESSION

MOTION: James Mickowski moved, seconded by Steven Tweed, to convene to Closed Session to deliberate on cases involving hearings (s. 19.85 (11) (a), Stats.); to consider licensure or discipline (s. 19.85(1) (b), Stats. to consider individual histories or disciplinary data (s. 19.85(1) (f), Stats.); and to confer with legal counsel (s. 19.85(1) (g), Stats.). Motion carried by roll call vote: Scott Berg-yes, Steven Tweed-yes; James Mickowski-yes.

Open session recessed at 11:51 a.m.

RECONVENE IN OPEN SESSION

MOTION: James Mickowski moved, seconded by Steven Tweed, to reconvene in open session at 3:48 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MONITORING REPORT OF ANY RECEIVED AFTER MAILING OF AGENDA

None.

CASE CLOSINGS

None.

DELIBERATION ON PROPOSED STIPULATIONS OR ANY SIGNED AFTER MAILING OF AGENDA

**WILLIAM JOSEPH BERGH
06 DSN 001**

MOTION: James Mickowski moved, seconded by Steven Tweed, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order in the matter of disciplinary proceedings against William Joseph Bergh, 06 DSN 001. Motion carried unanimously.

DELIBERATION ON PROPOSED ADMINISTRATIVE WARNINGS OR ANY RECEIVED AFTER PRINTING OF AGENDA

None.

PROPOSED DECISION OR ANY SIGNED AFTER PRINTING OF AGENDA

None.

**DELIBERATION ON DISCIPLINARY ACTIONS SIGNED AFTER PRINTING OF
AGENDA**

None.

PETITIONS FOR REHEARING RECEIVED AFTER THE MAILING OF AGENDA

None.

**REQUEST FOR CLASS 1 HEARINGS OR ANY REQUESTED AFTER PRINTING OF
AGENDA**

None.

APPLICATIONS REVIEWED ON APRIL 21, 2009

The Section took the following action on applications.

PERMIT AS A DESIGNER OF ENGINEERING SYSTEMS

1. By Experience Provision -- ss. 443.07(1)(b), Stats.

Approved

- | | |
|------------------------|-------------------------------|
| 1. Jablonksi, Peter J. | 9. Schires, Timothy J. |
| 2. Gallagher, Brian J. | 10. Smuck, Dale C. |
| 3. Gotto, Daniel J. | 11. Spaulding, Matthew C. |
| 4. Hammer, Donald A. | 12. Stoppleworth, Timothy J. |
| 5. Hanagan, Angela R. | 13. Stoppenbach, Nathan J. |
| 6. Lagina, James J. | 14. Wantz, Joseph A. |
| 7. Maslanka, Kevin | 15. Wilhelm, Joseph D. (Elec, |
| 8. Salm, Daniel D. | Hvac, Plumbing) |

Intent to Deny

1. Byerly, Trever (HVAC, Plumb, PSS)
2. Doll, Mark
3. Holter, Mark
4. Ignasiak, Thomas E.
5. King, Thomas (HVAC)

2. Exam

Approved

1. Adams, Dale W.
2. Brown, Anthony
3. Deering, Eric
4. Fluger, Steve H.
5. Granlund-Memmel, Peter J.
6. Illingworth, Richard F.
7. Kempfer, Andrew
8. Westlund, Thomas

MOTION: Steven Tweed moved, seconded by James Mickowski, to act on the applications reviewed for today's meeting as reviewed and signed in the application files. Motion carried unanimously.

REINSTATEMENT REQUESTS OR ANY SUBMITTED AFTER PRINTING OF AGENDA

None.

EXAMINATION ISSUES

None.

CONSULTING WITH LEGAL COUNSEL

None.

DOE – Signatures for Proposed Stipulations, Orders, and Administrative Warnings

Signatures were collected for all required items.

ADJOURNMENT

MOTION: Steven Tweed moved, seconded by James Mickowski, to adjourn the meeting at 3:51 p.m. Motion carried unanimously.